

IOWA STATE BOARD
OF EDUCATION
(Cite as 8 D.o.E. App. Dec. 169)

In re Starla Roach :
David Roach, :
Appellant, :
v. : DECISION
South Clay Community :
School District, :
Appellee. : [Admin. Doc. #3074]

The above-captioned matter was heard on November 5, 1990, before a hearing panel comprising David H. Bechtel, special assistant to the director, and presiding officer; Don Helvick, consultant, Bureau of School Administration and Accreditation; and Coleen McClanahan, consultant, Bureau of Federal School Improvement. Appellant David Roach was present in person, unrepresented by counsel. Appellee South Clay Community School District [hereafter the District] was present in the person of Richard Moore, superintendent, also not represented by counsel.

An evidentiary hearing was held pursuant to departmental rules found at 281 Iowa Administrative Code 6. Appellant seeks reversal of a decision made on September 18, 1990, by the District's board of directors [hereafter the Board] expelling his daughter Starla for the balance of first semester and conditioning her readmission second semester upon certain behaviors. Authority for the appeal is found in Iowa Code chapter 290.

I.
Findings of Fact

The presiding officer finds that he and the State Board of Education have jurisdiction over the parties and subject matter of this appeal.

During fifth hour journalism class on September 13, Starla Roach, a senior, had completed her homework in the free time provided at the end of class, and sat down at the computer and composed an anonymous letter to the school librarian, of whom Starla was not particularly fond. She hit the print key and approached the printer to tear off the "poison pen letter." The journalism teacher, Ms. Spencer, intervened when Starla failed to pull the document from the printer properly. Afraid that her teacher would see the contents of the document, Starla grabbed it from Ms. Spencer's hands and held it behind her own back.

At this point one of Starla's friends and classmates, Danielle Koenig, took it from Starla's hands to the back of the classroom where she read it and laughed out loud. Ms. Spencer convinced Starla to get the letter and give it to her, which Starla reluctantly did. Ms. Spencer folded the

letter and put it in her shoe. Starla and witnesses for her at the hearing testified that when Ms. Spencer put the note in her shoe, she told the girls something to the effect that she would rip up the note or that the incident wouldn't go any further. However, at that point, Ms. Spencer had not read the note.

During lunch period, Ms. Spencer told Starla she wanted to talk with her. When they did discuss it, Ms. Spencer told Starla she thought the note was awful and that Starla should either agree to see a psychiatrist or confess to the principal.¹ Starla declined to do either, but protested that she had never intended to deliver the note; she had written it for a joke for fun. Ms. Spencer gave the note to Mr. Larry Stegge, the high school principal.

Starla was called into the principal's office on Friday, September 14, to answer for misconduct from two days earlier. Starla had sworn at Ms. Rodgers, the librarian and study hall supervisor, and had walked out of study hall without permission. (Starla was angry because she believed she and her friend Danielle had been denied the opportunity to work together on an assignment they were supposed to do jointly. Ms. Rodgers' account to the superintendent was that she initially refused Starla, then gave her permission by pointing to "the usual table" where, apparently, students were permitted to work together and talk quietly.) For this infraction, Starla was given three days' suspension out of school.

Mr. Stegge added a fourth day to her penalty for another incident that had occurred in the lunchroom that day. Starla had taken the salt and pepper shakers from the teachers' table at lunch rather than going to the front of the lunchroom to get salt and pepper available to students. When a teacher, Ms. Hart, physically grabbed her or otherwise accosted Starla, Starla reacted by pulling her arm away. Ms. Hart stumbled briefly, then, according to the testimony of Starla's friend Danielle, Ms. Hart apologized for grabbing Starla. Nevertheless, the incident was reported and Starla was punished.

At this point, when Mr. Stegge learned of these two incidents (prior to learning about the note), he spoke to Superintendent Moore about Starla's misconduct. Mr. Stegge said he was concerned because she was starting to repeat behaviors he had seen in her last year. Superintendent Moore advised Mr. Stegge to give Starla in-school suspension and a warning. She was absent the next day and before Mr. Stegge could meet with her, she had composed the note that became her undoing.

¹ The day after the incident, Ms. Spencer spoke with Shannon Johnson, another of Starla's friends who had been in journalism class with Starla on the date of the note-writing incident, and Shannon asked her why she had read the note when she'd originally promised the girls she'd destroy it. According to Shannon's testimony, Ms. Spencer apparently indicated she was sorry she had read it and asked Shannon to bring Starla over to Ms. Spencer's house that night, presumably to discuss the situation and apologize to Starla for breaking her word and for the fact that the incident had gotten so blown out of proportion. Starla didn't go to Ms. Spencer's house, but later Ms. Spencer apologized and said she felt she had to notify school officials after reading the note. She stated her belief that if she didn't and something ultimately happened to Ms. Rodgers, she (Ms. Spencer) could be held responsible.

Mr. Stegge called Mrs. Roach at work to inform Starla's parents that Starla had written a "death-threat" note to a staff member. When she asked what she should do, Mrs. Roach was told to come to a special board meeting to be held the next week. Mr. Stegge also told her Starla was suspended pending the Board's decision. A letter summarizing these facts and laying out the superintendent's recommendation for expulsion² to the Board was sent to Starla's parents.

In his letter to the Roaches, Superintendent Moore laid out three bases for his recommendation. First was the incident on about September 11 when Starla used profanity directed to Mrs. Rodgers in the library/study hall; second was the lunchroom incident with Ms. Hart over the salt and pepper shakers; and third was Starla's note to Ms. Rodgers.

At the expulsion hearing before the Board, Starla related her version of events, including the fact that she had never intended for the note to be read by Ms. Rodgers. The Board was also advised of Starla's history of misconduct and absenteeism (she missed 62 school days in her junior year, only one-third of which were due to legitimate illness, she testified). In eleventh grade Starla had been kicked out of Ms. Rodgers' study hall twice and Mr. Lein's class for the semester. (She took her classes in the office and did not lose credit for the course.)

The Board held the hearing in closed session, then adjourned and reconvened in open session to take action.³ They voted 7-0 to expel Starla for the first semester. The Board also imposed on Starla two conditions and one recommendation or suggestion for her readmission second semester. Those conditions read as follows:

1. Perfect attendance -- no absences or tardies.
2. Perfect behavior -- any incident reported to the office, whether for detention or worse, will result in another hearing before the Board.
3. We suggest that Starla seek professional counseling help prior to readmission.

Previous Record, Board Minutes of September 18, 1990.

² Mr. Moore recommended expulsion for the balance of the school year because, as he testified, he doesn't "take threats against the staff lightly, particularly when made before a multiple audience [Starla's friends]." Ms. Rodgers, the librarian, was so concerned about the contents of the note when she was told about it or read it that she contacted law enforcement asking for protection. Superintendent Moore felt he needed to show support for her, and stated he did not view the note as a childish prank.

³ The Board minutes clearly identified Starla Roach as the subject of the closed hearing and stated the fact of her expulsion. We are concerned about this practice, as it may amount to a violation of student records' confidentiality by the Board, but we have not been asked to rule on this issue.

Starla testified that, at least at the time of this hearing, she had not sought or received counseling as suggested.

Because it is doubtful that Starla can graduate this year, having lost all credit for first semester, Superintendent Moore testified that he offered to help Starla with enrollment at a community college to keep up her coursework and credits. Mr. Roach stated that The Learning Center, an alternative school that charges 30 dollars per credit, only offers courses that Starla already has. She needs an art credit, for example, but that course is not offered. It was unclear what efforts were made, jointly with the superintendent or individually, to follow up on the offer for community college courses. Consequently, Starla received no credits from first semester from any source.

Because the note and its contents served as the primary basis for Starla's expulsion, we include it in our findings of fact as written by Starla:

Dear Marian Rodgers

I will be your worse nightmare. When you wake up in the morning I will be there. Your worse nightmares will be about me. You look out of the window and I will be there. If you keep up what that you are doing you will die. I don't kill people by stabbing or shooting them. I torcher them. Like for instance by breaking your legs blowing up your car, your house, or even seeing dead animals out in your yard and the more bloodier they get the closer to your death you get. I know that you know who this is and if you say a word your house will be on fire when your not home. Just remember you mess with me and you mess with the best

signed your worst nightmare

II. Conclusions of Law

The school board of a public school district has the authority to expel students beyond ten days duration. Iowa Code §282.4 (1989); Goss v. Lopez, 419 U.S. 565, 95 S.Ct. 729 (1975). The local board also has the power to set "the terms and conditions" for reentry after an expulsion. Iowa Code §282.5 (1989). Thus, the statutory authority for the Board's decision here is not in question. What Appellant questions is the severity of the punishment.

In our review of local board action, we evaluate a decision in light of its reasonableness and whether the Board's action was arbitrary and capricious. In re Janis Anderson and Ottumwa Transit Lines, Inc., 4 D.P.I. App. Dec. 87, 93 (1985).

In this case, as much as we may personally disagree with the result, we cannot conclude as a matter of law that the Board's action was

unreasonable or without basis or made arbitrarily.⁴ We do have considerable difficulty viewing the note as a "death threat." If one takes the words at face value, it could be a threatening letter. Given the circumstances surrounding it, however, we believe it is reduced to an adolescent expression of the type suitable for a plot line in one of the currently popular teen-age "slasher" movies.

We had the opportunity to observe Starla's demeanor and get a sampling of her personality. She appears to be a headstrong, outspoken young lady who, perhaps, has a temper she needs to learn to control. But she doesn't appear to be a Lizzie Borden-in-waiting or a female Leopold or Loeb.

Starla's girlfriends giggled at the note. After Ms. Spencer's initial reaction that the note was awful, it appears even she realized that the school's concern may have gotten out of hand. Starla told everyone involved that she had no intention of delivering the letter and certainly no intention of doing any of the things she wrote about, but it seems no one believed her, or at least no one was willing to bank on her honesty. The fact that she had that week sworn at Ms. Rodgers and had a history of personal conflict with her didn't help Starla's situation at all. The District and Board apparently viewed the situation cautiously (perhaps overly so) and decided it might be difficult to distinguish between real threats and idle ones, so they had better take her seriously.

The State Board in the past has urged school boards to use their ultimate disciplinary tool, expulsion, sparingly, if at all. In re Korene Merk, 5 D.o.E. App. Dec. 270 (1987) ("We think the administration should do everything in its power to keep students in school, not create a system that immediately excludes them whenever they transgress.") The State Board felt so strongly about current disciplinary practices in many of Iowa's public schools that it created a formal Position Statement on Academic Sanctions or Penalties Imposed for Pupil Misconduct. ("Expulsion should be exercised only for the most serious acts which endanger the student's welfare or the welfare of others in school.") Nevertheless, the punishment of expulsion is appropriate in some situations, including assaults on teachers (In re Carl Raper, 7 D.o.E. App. Dec. 352 (1990)); assaults on other students (In re Troy Hudson, 7 D.o.E. App. Dec. 144 (1989)); and serious incidents of vandalism and being under the influence of alcohol at school (In re Eugene Whisenand, 8 D.o.E. App. Dec. 37 (1990)).

We hope that the school officials and guidance counselors can find a way -- perhaps through independent study or the Postsecondary Enrollment Options Act (Iowa Code chapter 261C), to help Starla obtain enough credits to graduate with her class this spring. Of course, Starla is going to have to be willing to put forth the extra effort in second semester to take advantage of whatever opportunities she is given to graduate in May.

⁴ We also admit that the timing of the hearing limited, to a small extent, the State Board's ability to help Starla. With only a few short weeks of first semester remaining, reinstatement would have had no practical benefit.

We feel compelled to comment on the reasonableness of the conditions set by the Board for Starla's reentry second semester. The "perfect attendance" requirement strikes us as unreasonable on its face. If Starla were sick or injured, that would have no bearing on her conduct and would certainly not serve as grounds for further suspension or expulsion. The "perfect attendance -- no absences or tardies" condition set by the Board is not an acceptable condition to the State Board. The no further misconduct ("perfect behavior") is a bit more reasonable yet also slightly unrealistic, but it would be better in our view if Starla were given a clean slate second semester. Moreover, the Board would not likely want to be in a position tantamount to constant supervision of Starla's behavior. We appreciate the fact that the Board modified the length of the expulsion period recommended to it, but believe the Board would be legally hard-pressed to exercise its authority to expel for only a minor infraction second semester. The Board should reevaluate its position on this "condition."

With respect to the third Board statement, which was included as a "suggestion" rather than a requirement, we acknowledge that professional counseling is consistent with the Board's position of taking seriously the letter to Ms. Rodgers, and recognize that counseling can be an appropriate tool in serious incidents of deviant behavior. However, as the District's at-risk program, now required by the new school accreditation standards, is not in full operation, we would encourage the Board members to get their own house in order. That will enable them better to meet the needs of at-risk students, possibly including specialized counseling.

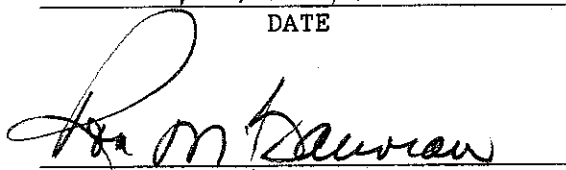
Finally, we wish to make clear to Starla that this decision in no way condones what she did. It was a thoughtless, immature, and callous act. She perhaps needs to be reminded that some things are not funny, and she should take a lesson from the gentleman who entertained himself by saying, "Hi, Jack" to a Delta Airlines pilot as he enplaned for a flight to Miami and quickly found himself arrested and facing federal charges.

Any motions or objections not previously ruled upon are hereby denied and overruled.

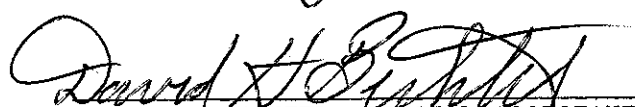
III. Decision

For the foregoing reasons, the decision of the board of directors of the South Clay Community School District made on September 18, 1990, expelling Starla Roach for first semester is hereby affirmed, but condition number one ("perfect attendance -- no absences or tardies") set by the Board is overruled as a criterion for reentering, and condition number two ("perfect behavior") is remanded to the Board for further evaluation in light of the concerns expressed by the State Board. There are no costs of the appeal to be taxed.

1-10-91
DATE


RON MCGAUVRAN, PRESIDENT
STATE BOARD OF EDUCATION

January 11, 1991
DATE


DAVID H. BECHTEL, SPECIAL ASSISTANT
TO THE DIRECTOR
AND PRESIDING OFFICER